

App. No. 10/777,667
Amdt. Dated April 11, 2005
Reply to Office Action of February 10, 2005
Atty. Dkt. No. 8590-101

REMARKS / ARGUMENTS

This reply is responsive to the Office Action mailed February 10, 2005. Reconsideration and allowance of the application and presently pending claims 1-19 and 25-27 are respectfully requested.

The amendments to the claims were made to render them more clear and definite and to emphasize the patentable novelty thereof. There is no intent to surrender equivalence. The amendments were made in response to the last Office Action. No new search is required because the amendments merely clarify the mode of operation of the Applicant's invention. Thus, the amendments comply with Rule 116(b).

Present Status of the Patent Application

Claims 1-19 and 25-27 remain pending in the application. Claims 1-19 and 25-27 have been rejected. Claims 1, 2, 13, and 25-27 have been amended.

Response to Claim Rejection Under 35 U.S.C. §112

Claims 1-19 and 25-27 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement in connection with the recitation "abrupt jarring". The Examiner is directed to paragraph [0029] where recitation is used in the specification. In addition, the recitation uses commonly used words and the Applicant is not using the words outside their common uses. For example, the recitation "abrupt jarring" could be defined as "quick jolting" or some other appropriate equivalent. Therefore, the claims are clear and definite.

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Response to Claim Rejections Under 35 U.S.C. §103

Claims 1-7 and 25-27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Cordes (U.S. Patent No. 3,636,999) in view of <http://www.cfic.ca>. Applicant respectfully traverses this rejection.

The Cordes patent discloses an apparatus for pulling the tops and root tendrils from garlic bulbs. The <http://www.cfic.ca> reference discloses the packaging of vegetables.

Independent Claims 1 and 27

Independent claims 1 and 27, as amended, are allowable for at least the reason that neither Cordes nor <http://www.cfic.ca> disclose, teach, or suggest "securing a top portion of each of the vegetables" and "applying an abrupt jarring force to a bottom portion of each of the vegetables acting substantially in a direction opposite the top portion."

In this regard, and with reference to the teaching of the Cordes patent, the Office Action cites col. 1, lines 64-67:

... With rotation, the pulling pressure increases without cutting action until the top and the outer skin adjacent to the top is pulled loose from the bulb, or the root tendrils are pulled from the root plate...

Cordes discloses pulling **both** the top and the root tendrils from the bulb. In addition, Cordes specifically states (col.1, lines 61-64) that "[t]he roll contours and roll position are designed to exert a **gentle** and positive pulling action on the tops and root tendrils of the garlic bulbs when they are caught between the contact points of the **slowly** rotating rolls." Slow gentle pulling is the antithesis of "abrupt jarring." Therefore, Cordes does not disclose "securing a top portion of each of the vegetables" and "applying an abrupt jarring force to a bottom portion of each of the vegetables acting substantially in a direction opposite the top portion."

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The <http://www.cfic.ca> reference deals only with the packaging of vegetables and does not add anything to the Cordes patent in the above mentioned area.

Accordingly, the rejections are deficient in this area. Notwithstanding, the undersigned has reviewed the entirety of these references and has failed to identify any such teaching anywhere within these references. Accordingly, the Cordes patent and <http://www.cfic.ca> fail to teach or disclose the invention as defined by claims 1 and 27, and the rejections of claims 1 and 27 should be withdrawn.

Furthermore, Losito (U.S. Patent No. 3,734,004), which is cited by the Office Action for claims 9 and 10, does not disclose "securing a top portion of each of the vegetables" and "applying an abrupt jarring force to a bottom portion of each of the vegetables acting substantially in a direction opposite the top portion." Losito, as shown in Fig. 4, teaches supporting the vegetable by a middle portion and applying a perpendicular force to a bottom portion of the vegetable. In addition, it would not have been obvious to combine Cordes and Losito, because supporting the garlic by its stalk as taught by Losito would not allow for the removal of the top of the garlic as taught by Cordes. Therefore, Losito neither teaches the invention as defined by claims 1 and 27, nor would be obviously combined with Cordes.

Dependent Claims

Dependent claims 2-19, 25, and 26 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

App. No. 10/777,687
Amdt. Dated April 11, 2005
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Atty. Dkt. No. 8590-101

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and rejections have been traversed, rendered moot, and/or accommodated, and that now pending claims 1-19 and 25-27 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at 619-231-3666.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

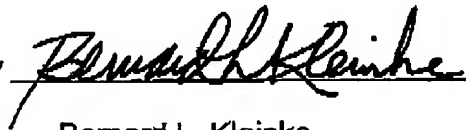
Respectfully submitted,

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